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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,540	01/16/2002	Gavriel J. Iddan	P-2752-US	1800
49443	7590	01/19/2006		
PEARL COHEN ZEDEK, LLP 10 ROCKEFELLER PLAZA SUITE 1001 NEW YORK, NY 10020			EXAMINER FOREMAN, JONATHAN M	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/046,540	Applicant(s) IDDAN, GAVRIEL J.	
	Examiner Jonathan ML Foreman	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 72-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 72-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/19/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Information Disclosure Statement*

The information disclosure statement filed 12/19/05 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. It has been placed in the application file, and the information referred to therein has been considered by the examiner as to the merits.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 72 – 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/53792 A2 to Given Imaging Ltd. in view of U.S. Patent No. 6,330,464 to Colvin, Jr. et al.

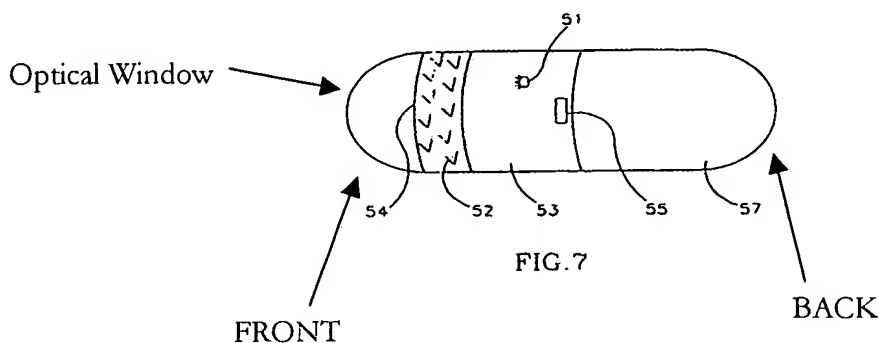
In regards to claims 72 – 76, Given Imaging Ltd. discloses a method for determining body lumen conditions including: receiving an endo-luminal sample on an interaction surface (54), the surface includes an indicator for reacting with an endo-luminal sample (Page 11, line 32 – Page 12, line 2), the imager and interaction surface are considered to be positioned behind an optical window in that the optical window (53) extends to the left of both the interaction surface (52) and the imager (55) (Figures 7 and 8). Given Imaging Ltd. discloses illuminating the interaction surface and imaging optical changes in the interaction surface with an optical system (Page 11, line 29 – Page 12, line 3). The interaction surface is transparent in the wavelength of illumination (Page 11, line 30). Given Imaging Ltd. discloses transmitting the video signals and a receiving system for receiving the video signals (Page 11, line 26). However, Given Imaging Ltd fails to disclose the interaction surface being

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an interaction chamber. Colvin, Jr. et al. discloses an autonomous device for determining in vivo condition. Colvin, Jr. et al. teaches the device having an indicator located within an interaction chamber. Each chamber is sealed by a membrane which selectively enables passage of a sample but not of the indicator (Col. 6, lines 51 – 56). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the interaction surface as disclosed by Given Imaging Ltd. to include an interaction chamber as taught by Colvin, Jr. et al. in order to help protect the indicator while in use (Col. 25, lines 50 – 61).

### ***Response to Arguments***

3. Applicant's arguments filed 11/17/05 have been fully considered but they are not persuasive. Applicant asserts that no reasonable interpretation of “behind an optical window” could refer to a reactant placed on the outside of the window as in the case with Colvin, Jr. et al. However, the Examiner disagrees. Applicant's claim does not require the interaction chamber to be positioned within the confines of the body of the capsule, merely “behind an optical window”. In this regard, the Examiner has reasonably interpreted “behind” as being “toward the back of” (Merriam-Webster's Collegiate Dictionary, 10<sup>th</sup> ed.). As stated previously, the imager and interaction surface are considered to be positioned behind an optical window in that the optical window (53) extends to the left of both the interaction surface (52) and the imager (55).



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As can be clearly seen in the above figure, the optical window is located at the front of the capsule, the power source (57) is located at the back of the capsule and the interaction surface is positioned “behind” the front and ahead of the back.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JMLF

  
**MAX F. HINDENBURG**  
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